



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2015-0456; FRL-9936-57-Region 4]

Air Plan Approval; TN; Knox County Emissions Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve changes to the Tennessee state implementation plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on behalf of the Knox County Department of Air Quality Management (County Department), on March 14, 2014, and May 14, 2015, that require certain sources in Knox County, Tennessee, to report actual emissions of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) to the County Department annually. These changes amend the Knox County Air Quality Management Regulations in the Knox County portion of the Tennessee SIP to reflect the State of Tennessee's SIP-approved emissions statement requirements for Knox County. This action is being taken pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: This direct final rule is effective **[Insert date 60 days after publication in the Federal Register]** without further notice, unless EPA receives adverse comment by **[Insert date 30 days after publication in the Federal Register]**. If EPA receives such comments, it will

publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0456 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-ARMS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2015-0456”, Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. “EPA-R04-OAR-2015-0456”. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information

provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information may not be publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation

Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Bell can be reached at (404) 562-9088 or via email at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA promulgated revised 8-hour ozone national ambient air quality standards (NAAQS) of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75

percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. EPA designated Blount and Knox Counties in Tennessee as a nonattainment area (hereinafter referred to as the “Knoxville Area” or “Area”) for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012) using 2008-2010 ambient air quality data. *See* 77 FR 30088 (May 21, 2012). At the time of designation, the Knoxville Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. On March 6, 2015, EPA finalized a rule entitled “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements” (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS.¹ *See* 80 FR 12264. This rule establishes nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA, including an attainment date three years after the July 20, 2012, effective date, for areas classified as marginal for the 2008 8-hour ozone NAAQS. Therefore, the attainment date for the Knoxville Area is July 20, 2015.² On July 13, 2015, EPA determined that the Area had attained the 2008 8-hour ozone NAAQS and redesignated the Area to attainment. *See* 80 FR 39970.

¹ The SIP Requirements Rule addresses a range of nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology, reasonably available control measures, major new source review, emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. The rule also revokes the 1997 ozone NAAQS and establishes anti-backsliding requirements.

² On August 27, 2015, EPA proposed to determine that the Area attained the standard by the attainment date. 80 FR 51992.

Ground level ozone is not emitted directly into the air, but is created by chemical reactions between NO_x and VOC in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC. Section 182(a)(3)(B) of the CAA requires each state with ozone nonattainment areas to submit a SIP revision requiring annual emissions statements to be submitted to the state by the owner or operator of each NO_x or VOC stationary source³ located within a nonattainment area showing the actual emissions of NO_x and VOC from that source. The first statement is due three years from the area's nonattainment designation, and subsequent statements are due at least annually thereafter. The State of Tennessee satisfied the obligation to develop a nonattainment SIP revision for the Knoxville Area addressing section 182(a)(3)(B). EPA approved the State's SIP revision addressing emissions statement requirements for the 2008 8-hour ozone standard on March 5, 2015. *See* 80 FR 11974.

The Knox County Air Pollution Control Board (County Board) adopted a new regulation, Knox County Air Quality Management Regulation Section 26.5.C – *Emissions Statement*, on October 16, 2013, requiring certain sources to report actual emissions of VOC and NO_x to the County Department annually and amended that regulation on January 21, 2015, to more closely reflect the Tennessee emissions statements requirements for the 2008 8-hour ozone standard in Tennessee Air Pollution Control Regulation 1200-3-18-.02 – *General Provisions and Applicability*. EPA is approving the portion of the March 14, 2014, SIP submittal containing the version of Section 26.5.C adopted by the County Board on October 16, 2013, and the May 14,

³ A state may waive the emissions statements requirement for any class or category of stationary sources which emit less than 25 tons per year of VOCs or NO_x if the state meets the requirements of section 182(a)(3)(B)(ii).

2015, SIP submittal containing the revisions to Section 26.5.C adopted by the County Board on January 21, 2015. More information on EPA's analysis of the SIP revisions is provided below.

II. Analysis of State's Submittal

The March 14, 2014, and May 14, 2015, submittals seek to add Knox County Air Quality Management Regulation Section 26.5.C to the Knox County portion of the Tennessee SIP. EPA initially approved Knox County Air Quality Management Regulation Section 26.5 – *Monitoring, Recording, and Reporting of Source Emissions*, into the Tennessee SIP in 1972. *See* 37 FR 10842 (May 31, 1972). Knox County is amending Section 26.5 to include Section 26.5.C – *Emissions Statement* that reflects the State of Tennessee's SIP-approved emissions statement requirements in Tennessee Air Pollution Control Regulation 1200-3-18-.02. Section 26.5.C requires owners and operators of sources with actual emissions of 25 tons per year or more of VOC or NO_x to submit annual reports of actual emissions to the County Department.

Tennessee's May 14, 2015, SIP submittal contains the County Board's January 21, 2015, revisions to Section 26.5.C. that modify the submission deadline and include more detailed certification requirements. The revisions set a June 15 deadline to submit emissions statements to the County Department for 2015 and a March 31 deadline for 2016 and beyond. The revisions also require that an official of the company sign the report, certifying that the information and data contained in the report is accurate to the best knowledge of the individual certifying the report. EPA has determined that these SIP submissions meet the requirements of the CAA.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Knox County Air Quality Management Regulation Section 26.0 entitled “*Monitoring, Recording, and Reporting*”, effective January 21, 2015, addressing annual emissions statements for certain VOC and NO_x sources in Knox County. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the EPA Region 4 office (see the ADDRESSES section of this preamble for more information).

IV. Final Action

EPA is approving the portion of the March 14, 2014, SIP submittal containing the version of Section 26.5.C adopted by the County Board on October 16, 2013, and the May 14, 2015, SIP submittal containing the revisions to Section 26.5.C adopted by the County Board on January 21, 2015. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final

rule and informing the public that the rule will not take effect. All adverse comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days from date of publication] and no further action will be taken on the proposed rule.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 20, 2015.

Heather McTeer Toney
Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

2. Section 52.2220(c), is amended under Table 3 – EPA Approved Knox County, Regulations by revising the entry for “Section 26.0” to read as follows:

§ 52.2220 Identification of plan.

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(c) * * *

Table 3 – EPA Approved Knox County, Regulations

State section	Title/subject	State effective date	EPA approval date	Explanation
**	**	*	*	*
26.0	Monitoring, Recording, and Reporting	1/21/2015	[Insert date of publication in <u>Federal Register</u>] [Insert citation of <u>Federal Register</u>]	
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[FR Doc. 2015-28105 Filed: 11/4/2015 8:45 am; Publication Date: 11/5/2015]